

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14207, of Margaret Weaver, et al., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 to continue to operate a parking lot in an R-2 and C-1 District at premises 3820-26 McKinley Street, N.W., (Square 1859, Lots 49, 50, 51 and part of 92).

HEARING DATE: November 14, 1984
DECISION DATE: December 5, 1984

FINDINGS OF FACT:

1. The subject property is located on the south side of McKinley Street, in the R-2 and C-1 Zone Districts at premises known as 3820-26 McKinley Street, N.W.

2. The subject site is approximately 17,875 square feet in area, and is improved with a parking lot currently operated pursuant to BZA Order No. 13125 dated April 14, 1980.

3. The applicant proposes the continuation of the facility as a parking lot for a period of five years.

4. The lot accommodates approximately thirty-four vehicles, and is an attendant facility. The hours of operation are from 9:30 A.M. to 9:00 P.M., Monday through Saturday, with an attendant on duty from 10:00 A.M. to 6:00 P.M., Monday through Thursday, and 10:00 P.M. to 9:00 P.M. on Friday and Saturday.

5. The lot is located at the rear of the commercial establishments in the 5500 block of Connecticut Avenue, which include People's Drug Store, Chevy Chase Liquors, Drug Fair, a sub shop, Schupp's Bakery and Boukas Florist. The lot serves as accessory parking for those businesses. The lot is located within 200 feet of the commercially zoned properties it serves.

6. A majority of the retail establishments are open on Sundays, and do utilize the lot as an unattended facility, as there are no Sunday deliveries or normal weekday traffic.

7. There is no charge for parking at this facility. It serves as accessory parking for the above-mentioned commercial corridor.

8. The lot complies with all of the conditions of the prior order of the Board and with all of the requirements of Paragraph 3101.48 and Article 74 of the Zoning Regulations.

9. The D.C. Department of Public Works (DPW), by memorandum dated September 11, 1984, reported that it had no objection to the application. The DPW noted that the subject lot is adequately maintained. The DPW further noted that the discontinuation of this use could result in spillover parking in nearby residential neighborhoods. The Board concurs with the reasoning of the Department of Public Works.

10. Advisory Neighborhood Commission 3G, by report dated November 5, 1984, reported that it opposed the renewal of this five year application unless the following conditions are met:

- A. The applicant continues to maintain the parking lot according to the same high standards that it has adhered to over the last several years.
- B. In the future, the lawn and shrubbery adjacent to the parking lot be maintained at standards comparable to those which the applicant now applies to the parking lot.
- C. The applicant develop means for improved litter removal for McKinley Street and Connecticut Avenue sidewalks. Further, the applicant should be willing to work with the ANC to develop a program for improved litter removal.
- D. The applicant should be willing to enter into a Memorandum of Understanding (MOU) to be developed with the ANC to devise ways and means for carrying out the above steps. This MOU shall also call for participation of the applicant (including corporate membership of the Peoples Drug Store chain) in ANC called meetings, which might be held once a year, to deal with possible parking lot and associated litter problems.

11. The applicant responded to the concerns of the ANC by testifying that the first three conditions of the ANC are already being complied with and will continue to be complied with. In addition, as to Condition C, the Board finds that the bus stop from which much of the litter appears to come, is not located adjacent to the parking lot. As to the fourth condition, the applicant was of the opinion that a Memorandum of Understanding will be unnecessary. The Board finds that no memorandum was entered into the record of the case. The Board urges the applicant to cooperate with the ANC and any other appropriate citizen organization to ensure that the

parking lot use has no objectionable impact in the area. The Board finds that the applicant has adequately responded to the concerns of ANC 3G.

12. A petition supporting the application was submitted to the record. The petition contained 102 signatures of neighbors who live and shop in the area surrounding the site. The petition stated that the signers support the continued operation of the subject lot.

13. A statement of opposition, dated November 14, 1984, was submitted to the record by a neighbor. The opposition was based on problems of operation at the lot including:

- A. Sidewalk and entrance repairs needed;
- B. Trash removal not frequent enough;
- C. Open dumpsters at scattered locations on the lot;
and
- D. Traffic backups on McKinley Street.

The opponent requested that any grant to continue operation of the lot be conditioned as follows:

- A. All sidewalks and grass areas adjacent to the lot, both on the north side (McKinley Street) and on the south side (Morrison Street), should be repaired and maintained in a clean and well-kept manner.
- B. Regular trash pickup (at least twice daily) should be required, seven days per week, for the area surrounding the lot.
- C. Dumpsters located on the lot should be kept closed at all times and maintained close to the commercial buildings they serve.
- D. The traffic pattern for the lot should be changed so that it is one way entering from Morrison Street and one way exiting to McKinley Street.

14. The applicant responded to the concerns of the opposition by testifying that the litter problem at the intersection of Connecticut Avenue and McKinley Street is caused by a combination of foot traffic from People's Drug Store, bus traffic at a bus stop near the intersection and vendors using the sidewalk in the area. Trash pickup is and will continue to be twice daily, seven days a week. The dumpsters located on the applicant's lot are kept closed. The open dumpsters that caused concern are located on a nearby lot. The Board finds that the traffic pattern is

under the jurisdiction of DPW. The Board further finds that the applicant has adequately responded to the concerns of the opposition

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to continue a parking lot. The granting of such a special exception requires a showing through substantial evidence that the application complies with Paragraph 3101.48 and Sub-section 8207.2 of the Zoning Regulations.

The Board concludes that the applicant has met this burden of proof. The Board concludes that given the consideration of location of the lot, its design, and the nearby commercial uses which it serves, the continuation of this parking facility will not be objectionable because of noise, traffic or other objectionable conditions. The lot serves as accessory parking to the directly adjacent commercial strip and is therefore necessary and convenient to the facilities it proposes to serve. The application complies with the provisions of Article 74.

Accordingly, it is hereby ORDERED that this application is hereby GRANTED SUBJECT to the following CONDITIONS:


1. Approval shall be for a period of FIVE YEARS from the expiration date of the prior order, namely from August 25, 1984.
2. No trash dumpsters shall be located on the residentially zoned portion of the lot.
3. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
4. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
5. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

7. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
8. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 3-0 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 FEB 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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